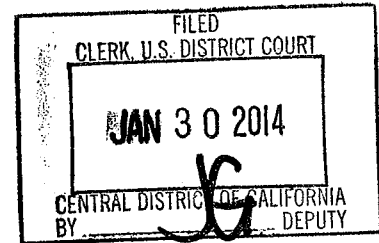


KILPATRICK TOWNSEND & STOCKTON LLP
DENNIS WILSON (Bar No. 155407)
DWilson@kilpatricktownsend.com
9720 Wilshire Blvd PH
Beverly Hills, CA 90212-2018
Telephone: 310-248-3830
Facsimile: 310-860-0363



KILPATRICK TOWNSEND & STOCKTON LLP
R. Charles Henn Jr. (admitted Pro Hac Vice)
CHenn@KilpatrickTownsend.com
Charles H. Hooker III (admitted Pro Hac Vice)
CHooker@KilpatrickTownsend.com
Nichole Davis Chollet (admitted Pro Hac Vice)
NChollet@KilpatrickTownsend.com
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

Attorneys for Plaintiff
ADIDAS AG AND ADIDAS AMERICA, INC.

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ADIDAS AMERICA, INC., a
Delaware corporation, and ADIDAS
AG, a German corporation,

Plaintiffs,

v.

SOCCER AND SOCCER, INC., a
California corporation, SAGHIR
SPALL, individually and d/b/a
SOCCER AND SOCCER, MAPLE
SPORTS INC. a California
corporation, PREMIER SOCCER
INC., a California corporation,
RICARDO RAMOS, individually and
d/b/a PREMIER SOCCER. GLORY
TRADING INC, a California
corporation AND MARIO SPORTS. a
California Corporation

Defendants.

Case No. CV-13-7148-GW-VBK

FIRST AMENDED COMPLAINT FOR:

1. COUNTERFEIT;
2. FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114);
3. FEDERAL UNFAIR COMPETITION;
4. UNFAIR AND DECEPTIVE TRADE PRACTICES;
5. COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION;
6. FEDERAL TRADEMARK DILUTION (15 U.S.C. § 1125(c));
7. STATE TRADEMARK DILUTION AND INJURY TO BUSINESS REPUTATION; and
8. BREACH OF CONTRACT

DEMAND FOR JURY TRIAL

1 Plaintiffs adidas America, Inc. and adidas AG (collectively, "adidas") state the
2 following for their Complaint against Defendants Soccer and Soccer, Inc.; Saghir
3 Spall, doing business as Soccer and Soccer; Maple Sports, Inc.; Premier Soccer Inc.;
4 Ricardo Ramos, doing business as Premier Soccer; Glory Trading Inc.; and Mario
5 Sports (collectively, "Defendants").

6 I. INTRODUCTION

7 1. This is an action at law and in equity for counterfeiting, trademark
8 infringement and dilution, injury to business reputation, unfair competition, and
9 deceptive trade practices, arising under the Trademark Act of 1946, 15 U.S.C. §§
10 1051, *et. seq.* (1994); the antidilution laws of several states; the fair business
11 practices and unfair and deceptive trade practices acts of several states; and the
12 common law. This also is an action for breach of the settlement agreement between
13 adidas and Defendants Premier Soccer Inc. and Glory Trading Inc.

14 2. Defendants are offering for sale and selling apparel that bears
15 counterfeit and/or confusingly similar imitations of adidas's federally registered
16 Three-Stripe trademark (the "Three-Stripe Mark"). Defendants' apparel is not
17 manufactured by adidas, and Defendants are not connected, affiliated, or associated
18 with, or authorized by, adidas in any way. Defendants merchandise is likely to cause
19 consumer confusion, deceive the public regarding its source, and dilute and tarnish
20 the distinctive quality of adidas's Three-Stripe Mark.

21 II. JURISDICTION AND VENUE

22 3. This Court has subject matter jurisdiction under section 39 of the
23 Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338. This Court
24 has subject matter jurisdiction over adidas's related state and common-law claims
25 pursuant to 28 U.S.C. §§ 1338 and 1367.

26 4. This Court has personal jurisdiction over Defendants because, on
27 information and belief, Defendants have sold, distributed, or shipped infringing
28 merchandise to persons within this State, have engaged in acts or omissions outside

1 of this State causing injury within this State, have manufactured or distributed
2 products used or consumed within this State in the ordinary course of trade, or have
3 otherwise made or established contacts with this State sufficient to permit the
4 exercise of personal jurisdiction.

5 5. This District is the proper venue pursuant to 28 U.S.C. § 1391(b)(2)
6 because a substantial part of the acts or omissions giving rise to adidas's claims
7 occurred in this District.

8 **III. THE PARTIES**

9 6. Plaintiff adidas AG is a joint stock company organized and existing
10 under the laws of the Federal Republic of Germany, having its office and principal
11 place of business at Postach 11230, D-91072 Herzogenaurach, Federal Republic of
12 Germany.

13 7. Plaintiff adidas America, Inc. is a corporation organized and existing
14 under the laws of the State of Delaware, having its principal place of business at
15 5055 N. Greeley Avenue, Portland, Oregon 97217. adidas America, Inc. is wholly-
16 owned by adidas AG and its affiliates, and within this country adidas America, Inc.
17 is a licensed distributor of ADIDAS-brand merchandise, including goods bearing the
18 distinctive Three-Stripe Mark. adidas AG and adidas America, Inc., as well as any
19 predecessors or related entities, are collectively referred to as "adidas."

20 8. On information and belief, Defendant Soccer and Soccer, Inc. is a
21 California corporation with a principal place of business at 305 Boyd Street, Los
22 Angeles, California 90013.

23 9. On information and belief, Defendant Saghir Spall is an individual
24 doing business as and under the name Soccer and Soccer. On information and belief,
25 Soccer and Soccer has its principal place of business at 305 Boyd Street, Los Angeles,
26 California 90013. Collectively, Soccer and Soccer, Inc. and Mr. Spall are referred to
27 as "Soccer and Soccer."

28 ///

1 10. On information and belief, Defendant Maple Sports Inc. ("Maple
2 Sports") is a California corporation with a principal place of business at 326 Boyd
3 Street, Los Angeles, California 90013.

4 11. On information and belief, Defendant Premier Soccer Inc. is a
5 California corporation with a principal place of business at 325 South San Pedro
6 Street, Suites C - D, Los Angeles, California 90013.

7 12. On information and belief, Defendant Ricardo Ramon is an individual
8 doing business as and under the name Premier Soccer. On information and belief,
9 Premier Soccer has its principal place of business at 325 South San Pedro Street,
10 Suites C - D, Los Angeles, California 90013. Collectively, Premier Soccer Inc. and
11 Mr. Ramon are referred to as "Premier Soccer."

12 13. On information and belief, Defendant Glory Trading Inc. ("Glory
13 Trading") is a California corporation with a principal place of business at 325 South
14 San Pedro Street, Suite A-1, Los Angeles, California 90013.

15 14. On information and belief, Mario Sports is a California corporation with
16 a principal place of business at 326 Boyd Street, Los Angeles, California 90013.

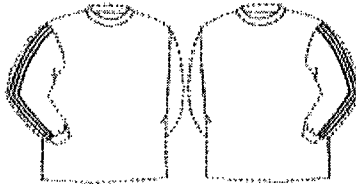
17 **IV. FACTS COMMON TO ALL CLAIMS FOR RELIEF**

18 15. adidas is currently, and for years has been, one of the world's leading
19 manufacturers of athletic footwear, sportswear, and sporting equipment. Over sixty
20 years ago, adidas first placed three parallel stripes on its athletic shoes, and the
21 Three-Stripe Mark came to signify the quality and reputation of adidas footwear to
22 the sporting world early in the company's history.

23 16. At least as early as 1967, adidas began using the Three-Stripe Mark on
24 apparel sold in the United States and worldwide. Pages from adidas catalogs
25 featuring apparel bearing the Three-Stripe Mark are attached as Exhibit 1.

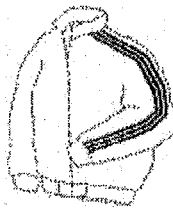
26 17. adidas is the owner of a federal trademark registration, Reg. No.
27 2,058,619, issued by the United States Patent and Trademark Office ("USPTO") on
28 May 6, 1997, for the Three-Stripe Mark, as depicted below, for "sports and leisure

1 wear, namely shirts.”



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7 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15
8 U.S.C. §§ 1058 and 1065, and this registration is incontestable. A copy of the
9 Certificate of Registration for this mark is attached as Exhibit 2.

10 18. adidas is the owner of a federal trademark registration, Reg. No.
11 3,029,127, issued by the USPTO on December 13, 2005, for the Three-Stripe Mark,
12 as depicted below, for “clothing, namely, T-shirts, sweatshirts, jackets and coats.”



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18 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15
19 U.S.C. §§ 1058 and 1065, and this registration is incontestable. A copy of the
20 Certificate of Registration for this mark is attached as Exhibit 3.

21 19. adidas is the owner of a federal trademark registration, Reg. No.
22 3,087,329, issued by the USPTO on May 2, 2006, for the Three-Stripe Mark, as
23 depicted below, for “clothing, namely, shirts, T-shirts, sweatshirts, vests, jackets and
24 coats.”

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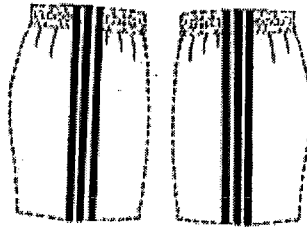
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Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this mark is attached as Exhibit 4

20. adidas is the owner of a federal trademark registration, Reg. No. 2,278,591, issued by the USPTO on September 21, 1999, for the Three-Stripe Mark, as depicted below, for "sports and leisure wear, namely shorts."



Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this mark is attached as Exhibit 5.

21. adidas also owns numerous additional trademark registrations for the Three-Stripe Mark covering apparel (Reg. Nos. 870,136, 2,016,963, 2,284,308, 3,063,742, 3,063,745, 3,183,656, and 3,236,505). A copy of the Certificate of Registration for each of these marks is attached as Exhibit 6.

22. In addition, adidas owns numerous additional trademark registrations for the Three-Stripe Mark covering footwear (Reg. Nos. 961,353, 1,815,956, 1,833,868, 2,278,589, 3,029,135, 3,029,129, 2,909,861, and 2,999,646), many of which are incontestable. A copy of the Certificate of Registration for each of these marks is attached as Exhibit 7.

23. adidas also owns federal registrations for verbal trademarks using the term "3 stripes" including THE BRAND WITH THE 3 STRIPES, Reg. No. 1,674,229, for "sport and leisure wear." A copy of the Certificate of Registration for this mark is attached as Exhibit 8.

24. The Three-Stripe Mark is well known and famous and has been for many years. adidas has used the Three-Stripe Mark in connection with its frequent sponsorship of sports tournaments and organizations, as well as professional athletes and collegiate sports teams. adidas's Three-Stripe Mark is particularly well known among soccer fans and consumers of soccer apparel. For many years, adidas has been a sponsor of the World Cup soccer tournament and has sponsored many soccer players, including David Beckham and four-time FIFA Player of the Year Lionel Messi. adidas also has been the exclusive apparel provider for Major League Soccer, including the Chicago Fire and LA Galaxy, for numerous famous international club teams, including Bayern Munich and Real Madrid, and for many national soccer teams around the world, including Argentina, Spain, Mexico, and Germany. adidas's Three-Stripe Mark is prominently featured on all of its jerseys, examples of which are depicted below:



Germany 2010 - Home Jersey



Spain 2008-2009 Away Jersey



Bayern Munich – Home Jersey



Bayern Munich – Training Jersey



Real Madrid – Away Jersey



Real Madrid – Home Jersey

25. In addition to marketing and promoting apparel bearing its famous Three-Stripe Mark, adidas has used the mark in connection with sponsoring the world-famous Boston Marathon for more than two decades, and in sponsoring many other events, teams, and individuals, including the University of Notre Dame, the University of California at Los Angeles, the University of Nebraska, the University of Tennessee, NBA stars Tim Duncan, Dwight Howard, Damian Lillard, and Derrick Rose, 2012 NFL Offensive Rookie of the Year Robert Griffin III, professional golfer Sergio Garcia, and baseball star Ryan Howard. Prominent use of the Three-Stripe Mark in connection with these sponsorship activities has further enhanced the mark's recognition and fame.

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1 26. The Three-Stripe Mark is non-functional, and the public recognizes and
2 understands that the Three-Stripe Mark distinguishes and identifies adidas's
3 merchandise. Indeed, unsolicited media coverage has referred to "the adidas stripes"
4 (Brettman, Allan, "A \$35 Swoosh of Genius," *The Oregonian*, June 16, 2011),
5 adidas's "ubiquitous three stripes" (Brettman, Allan, "Going 'All In' Against Nike,"
6 *The Oregonian*, March 15, 2011), the "trademark three-stripe logo" (Pennington,
7 Bill, "Belts That Do More Than Hold Up Pants," *New York Times*, July 27, 2009),
8 the "iconic three stripes" ("Game Time," *Footwear News*, June 16, 2008), the
9 "signature three stripes" (Moore, Booth, "Ringing Endorsements; Form Follows
10 Function with Much Olympic Wear, but Fashion and Funding are also at Play," *L.A.*
11 *Times*, August 13, 2004), the "famous brand with the three stripes" (Whiting, Sam,
12 "Must Have," *San Francisco Chronicle*, July 7, 2002), and the "legendary Adidas
13 three stripes" ("Coty Inc.," *Brand Strategy*, September 27, 1999). This is
14 particularly true within the soccer arena. Indeed, "[a]s the leading seller of soccer
15 shoes, Adidas AG has long been an official sponsor of the World Cup. And every
16 four years, when the tournament rolls around, its shoe sales rise. But typically,
17 counterfeiters -- primarily in China -- also spring into production." (*Corporate*
18 *Counsel*, May 25, 2007). As another author has noted:

19 The German soccer team sports the Adidas brand, while Brazil wears the
20 logo of Beaverton, Ore.-based Nike Inc. Even the referee, the distinctive
21 bald-headed Italian Pierluigi Collina, has appeared in an Adidas ad, and
22 with more than one billion people worldwide expected to tune in to see
23 Adidas' three stripes take on the Nike swoosh, branding doesn't get to be
bigger than this. But the sort of exposure that Adidas has had through
this World Cup over recent weeks has its downside. It has inspired
counterfeiters to plaster the distinctive three stripes on everything they
can think of . . .

24 Elizabeth Souder, "adidas Relishes World Cup Branding, As Do Counterfeiters,"
25 *Associated Press*, June 28, 2002.

26 27. For decades, adidas extensively and continuously has used and
27 promoted the Three-Stripe Mark in connection with apparel and footwear. In recent
28

1 years, annual sales of products bearing the Three-Stripe Mark have totaled in the
2 billions of dollars globally and in the hundreds of millions of dollars within the
3 United States. The Three-Stripe Mark has achieved international fame and
4 tremendous public recognition.

5 28. Since introducing its Three-Stripe Mark, adidas has spent millions of
6 dollars promoting the mark and products bearing the mark. As a result of adidas's
7 continuous and exclusive use of the Three-Stripe Mark in connection with its
8 products, the mark enjoys wide public acceptance and association with adidas, and
9 has come to be recognized widely and favorably by the public as an indicator of the
10 origin of adidas's goods.

11 29. As a result of adidas's extensive use and promotion of its Three-Stripe
12 Mark, adidas has built up and now owns valuable goodwill that is symbolized by the
13 mark. The purchasing public has come to associate the Three-Stripe Mark with
14 adidas.

15 **THE 2010 SETTLEMENT AGREEMENT BETWEEN**
16 **ADIDAS AND PREMIER SOCCER**

17 30. In 2010, adidas discovered that Defendants Premier Soccer Inc. and
18 Ricardo Ramos were offering for sale and selling apparel bearing two parallel stripes
19 on the outer sleeves of soccer jerseys in a manner that infringed adidas's Three-
20 Stripe Mark. True and correct photographs of the apparel at issue in that dispute are
21 depicted below (the "2010 Premier Infringing Apparel"):

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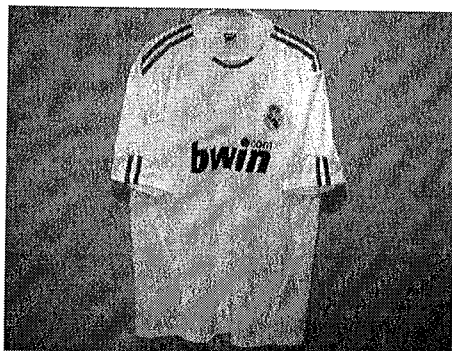
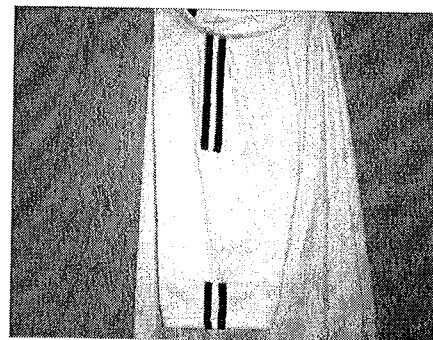
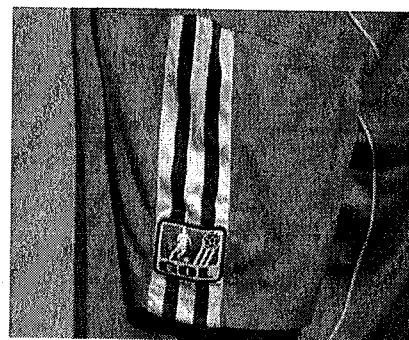
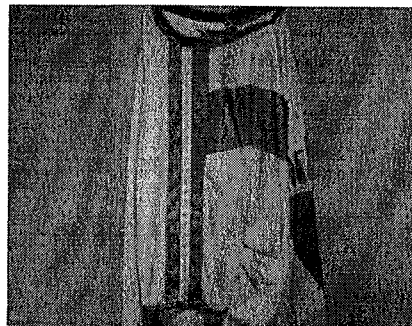
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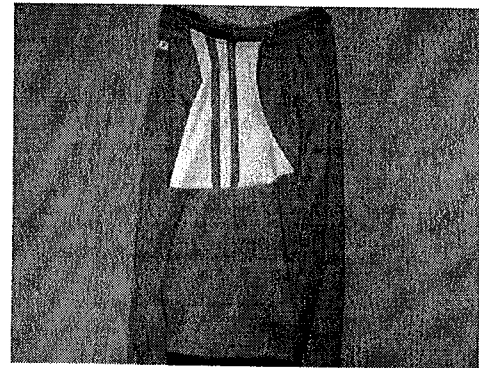
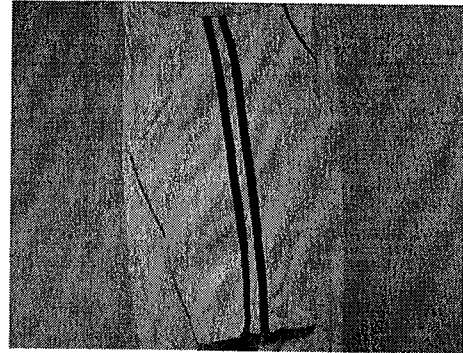
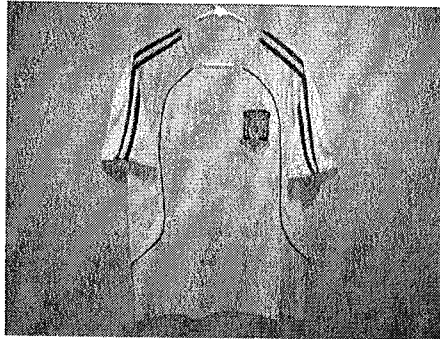
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31. adidas filed a civil action against Premier Soccer and others in the United States District Court for the Central District of California on September 9, 2010, styled *adidas America, Inc. et al v. Vigafon Sports, Inc. et al.*, No. 2:10-cv-06702-OCW-PJW (the “2010 Lawsuit”).

32. To resolve the 2010 Lawsuit, adidas and Premier Soccer entered into a settlement agreement (the “2010 Premier Settlement Agreement”). A true and correct copy of the 2010 Premier Settlement Agreement is attached as Exhibit 9.

33. In the 2010 Premier Settlement Agreement, Defendants Premier Soccer Inc. and Ricardo Ramos agreed, among other things:

not [to] produce, manufacture, import, distribute, offer for sale, sell, advertise, promote, license, or market [2010 Premier Infringing

Apparel], or any other product bearing the Three-Stripe Mark or any design, mark, or feature that is confusingly similar to the Three-Stripe Mark. By way of illustration, but not limitation, 'confusingly similar to the Three-Stripe Mark' includes (1) the Three-Stripe Mark with one additional stripe; or (2) the Three-Stripe Mark less one of the three stripes.

See Ex. 9 ¶ 4.1.

34. Additionally, under the 2010 Settlement Agreement, Premier Soccer entered into a permanent injunction on consent (the "Permanent Injunction"). *See* Exhibit 2 to Ex. 9.

35. This Court entered the Permanent Injunction against Premier Soccer on October 21, 2010. *See* Civil Action No. 2:10-cv-06702, ECF No. 29. A true and correct copy of that Order is attached as Exhibit 10.

THE 2010 SETTLEMENT AGREEMENT BETWEEN ADIDAS AND GLORY TRADING

36. In 2009, adidas discovered that Defendant Glory Trading was offering for sale and selling jerseys bearing three parallel stripes in a manner that infringed adidas's Three-Stripe Mark (the "2009 Glory Trading Infringing Apparel").

37. adidas sent Glory Trading a letter requesting that it cease all sales of the 2009 Glory Trading Infringing Apparel.

38. adidas and Glory Trading resolved the dispute by entering into a settlement agreement dated August 3, 2010 (the "2010 Glory Trading Settlement Agreement"). A true and correct copy of the 2010 Glory Trading Settlement Agreement is attached as Exhibit 11.

39. In the 2010 Glory Trading Settlement Agreement, Glory Trading agreed, among other things

not [to] produce, manufacture, distribute, sell, offer for sale, advertise, promote, license, or market the [2009 Glory Trading Infringing Apparel], or any other product bearing the Three-Stripe Mark or any design, mark, or feature that is confusingly

1 similar to the Three-Stripe Mark. By way of illustration, but not
2 limitation, 'confusingly similar to the Three-Stripe Mark includes (1)
3 the Three-Stripe Mark with one additional stripe; or (2) the Three-Stripe
Mark less one of the three stripes.

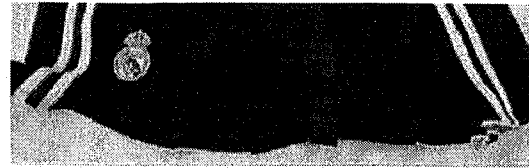
4 See Ex. 11 ¶ 3.1.

5 V. DEFENDANTS' UNLAWFUL ACTIVITIES

6 40. On information and belief, Defendants have manufactured, imported,
7 distributed, marketed, promoted, offered for sale, or sold in interstate commerce
8 apparel bearing two or three stripes that constitute counterfeit and/or confusingly
9 similar imitations of adidas's Three-Stripe Mark and that are essentially knock-offs
10 of authentic adidas soccer jerseys. For example, on information and belief,
11 Defendants have manufactured, imported, distributed, marketed, promoted, offered
12 for sale, or sold the following two- and three-stripe apparel, which in many instances
13 are virtually identical replicas of the official adidas jerseys:

14 Soccer and Soccer Apparel

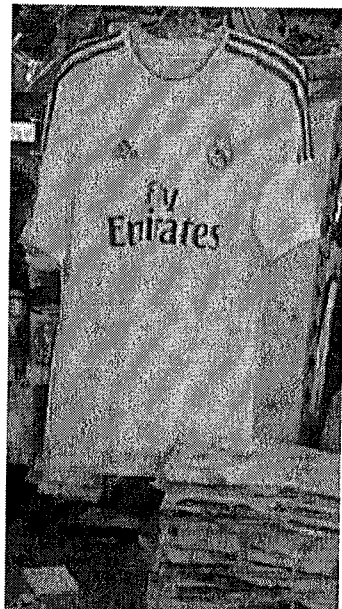


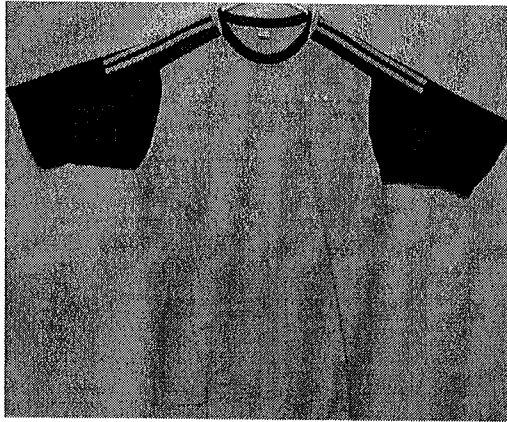
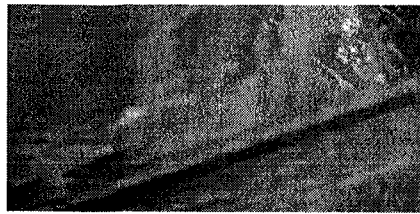
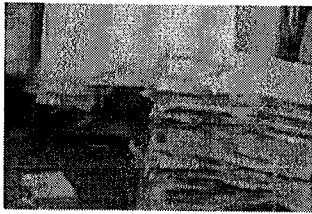


Maple Sports/Mario Sports Apparel

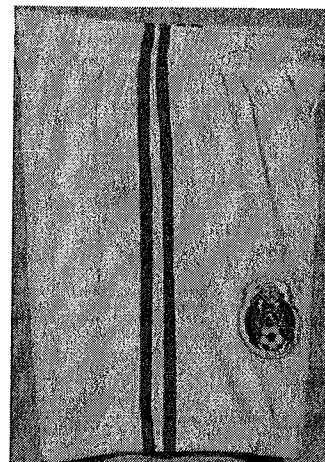


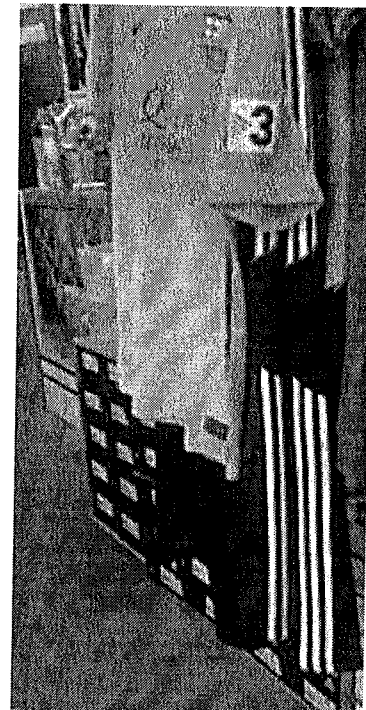
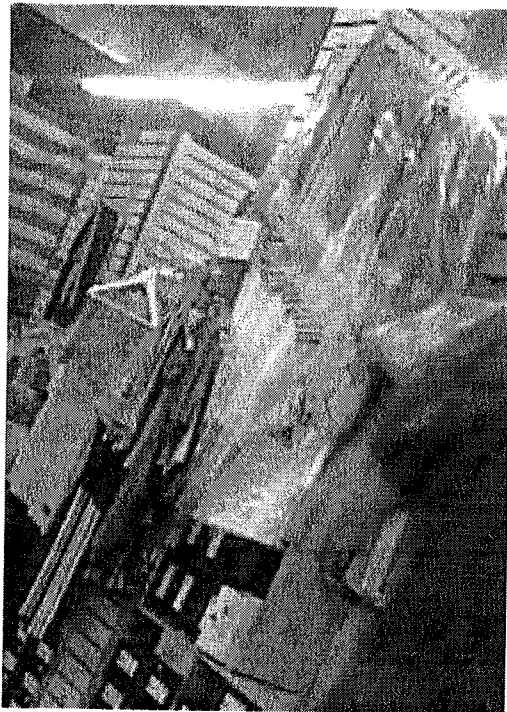
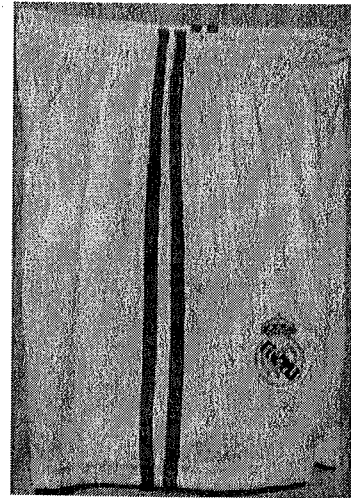
Premier Soccer/Ricardo Ramos Apparel





Glory Trading Apparel







41. On information and belief, all of the Defendants were familiar with the adidas Three-Stripe Mark when Defendants began manufacturing, importing, distributing, marketing, promoting, offering for sale, or selling the counterfeit and/or infringing apparel identified in this Complaint. On further information and belief, Defendants intentionally have marketed the counterfeit and/or infringing apparel to mislead and deceive consumers into believing that the apparel was produced by, originated from, or was authorized or licensed by adidas.

42. The apparel manufactured, imported, distributed, marketed, promoted, offered for sale, or sold by Defendants is not manufactured by adidas, and the Defendants are not associated or connected with adidas, or licensed, authorized, sponsored, endorsed, or approved by adidas in any way.

43. adidas used the Three-Stripe Mark extensively and continuously before Defendants began manufacturing, using, importing, distributing, marketing, promoting, offering for sale, or selling the counterfeit and/or confusingly similar imitations of adidas's apparel.

1 44. The apparel sold by Defendants is similar to, and competes with, goods
2 sold by adidas, and the parties' goods are sold through overlapping channels of trade.

3 45. Defendants' use of counterfeit and/or confusingly similar imitations of
4 adidas's Three-Stripe Mark is likely to deceive, confuse, and mislead purchasers and
5 prospective purchasers into believing that the apparel sold by Defendants is
6 manufactured by, authorized by, or in some manner associated with adidas, which it
7 is not. The likelihood of confusion, mistake, and deception engendered by
8 Defendants' misappropriation of adidas's mark is causing irreparable harm to the
9 goodwill symbolized by the Three-Stripe Mark and the reputation for quality that it
10 embodies.

11 46. Defendants' activities are likely to cause confusion before, during, and
12 after the time of purchase because purchasers, prospective purchasers, and others
13 viewing Defendants' apparel at the point of sale or on a wearer are likely—due to
14 Defendants' use of counterfeit and/or confusingly similar imitations of the Three-
15 Stripe Mark—to mistakenly attribute the product to adidas. This is particularly
16 damaging with respect to those persons who perceive a defect or lack of quality in
17 Defendants' products. By causing such a likelihood of confusion, mistake, and
18 deception, Defendants are inflicting irreparable harm to the goodwill symbolized by
19 the Three-Stripe Mark and the reputation for quality that it embodies.

20 47. On information and belief, Defendants continue to use counterfeit
21 and/or confusingly similar imitations of adidas's Three-Stripe Mark in connection
22 with the sale of apparel that competes directly with apparel manufactured and sold
23 by adidas. Defendants began selling these imitations well after adidas had
24 established protectable rights in its Three-Stripe Mark, and well after the Three-
25 Stripe Mark had become famous.

26 48. On information and belief, Defendants knowingly, willfully,
27 intentionally, and maliciously adopted and used counterfeit and/or confusingly
28 similar imitations of adidas's Three-Stripe Mark.

1 **FIRST CLAIM FOR RELIEF**

2 **(Counterfeiting)**

3 49. adidas repeats and incorporates by reference the allegations in the
4 preceding paragraphs.

5 50. Defendants have knowingly manufactured, imported, distributed,
6 marketed, promoted, offered for sale, or sold apparel that bears spurious marks that
7 are identical to and substantially indistinguishable from adidas's Three-Stripe Mark.

8 51. As a result of Defendants' manufacturing, importing, distributing,
9 marketing, promoting, offering for sale, or selling of the apparel described above,
10 Defendants are using counterfeit marks, as that term is defined in Section
11 34(d)(1)(B) of the Lanham Act, and Defendants are accordingly liable under the
12 anticounterfeiting provisions of the Lanham Act.

13 52. Defendants' use of spurious marks identical to or substantially
14 indistinguishable from the Three-Stripe Mark violates 15 U.S.C. § 1114, and
15 Defendants' activities are causing and, unless enjoined by this Court, will continue to
16 cause a likelihood of confusion and deception of members of the trade and public
17 and, additionally, injury to adidas's goodwill and reputation as symbolized by its
18 federally registered marks, for which adidas has no adequate remedy at law.

19 53. Defendants are likely to continue causing substantial injury to the public
20 and to adidas, and adidas is entitled to injunctive relief, an accounting for profits,
21 damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1114, 1116, and
22 1117. Additionally, pursuant to 15 U.S.C. § 1117(b), adidas is entitled to trebling of
23 the greater of profits or damages, and to prejudgment interest. Alternatively,
24 pursuant to 15 U.S.C. § 1117(c), adidas is entitled to recover statutory damages for
25 Defendants' willful use of counterfeit marks.

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1 creating the false and misleading impression that Defendants' goods are
2 manufactured or distributed by adidas, are affiliated, connected, or associated with
3 adidas, or have the sponsorship, endorsement, or approval of adidas.

4 61. Defendants have made false representations, false descriptions, and
5 false designations of their goods in violation of 15 U.S.C. § 1125(a). Defendants'
6 activities have caused and, unless enjoined by this Court, will continue to cause a
7 likelihood of confusion and deception of members of the trade and public, and,
8 additionally, injury to adidas's goodwill and reputation as symbolized by the Three-
9 Stripe Mark, for which adidas has no adequate remedy at law.

10 62. Defendants' actions demonstrate an intentional, willful, and malicious
11 intent to trade on the goodwill associated with adidas's Three-Stripe Mark to the
12 great and irreparable injury of adidas.

13 63. Defendants' conduct has caused, and is likely to continue causing,
14 substantial injury to the public and to adidas. adidas is entitled to injunctive relief
15 and to recover Defendants' profits, actual damages, enhanced profits and damages,
16 costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1125(a), 1116, and 1117.

17 **FOURTH CLAIM FOR RELIEF**

18 **(Unfair and Deceptive Trade Practices)**

19 64. adidas repeats and incorporates by reference the allegations in the
20 preceding paragraphs.

21 65. Defendants have been and are passing off their goods as those of adidas,
22 causing a likelihood of confusion or of misunderstanding as to the source,
23 sponsorship, or approval of Defendants' goods; causing a likelihood of confusion as
24 to Defendants' affiliation, connection, or association with adidas; and otherwise
25 damaging adidas and the consuming public. Defendants' conduct constitutes unfair
26 and deceptive acts or practices in the course of a business, trade, or commerce in
27 violation of the unfair and deceptive trade practices statutes of several states,
28 including Colorado, COLO. REV. STAT. ANN. §§ 6-1-101 to 6-1-115 (West 2009);

1 Delaware, DEL. CODE ANN. tit. 6, §§ 2531 to 2536 (2009); Georgia, GA. CODE
2 ANN. §§ 10-1-370 to 10-1-375 (2009); Hawaii, HAW. REV. STAT. §§ 481A-1 to
3 481A-5 (2009); Illinois, ILL. COMP. STAT. ANN. ch. 815, 510/1 to 510/7 (2009);
4 Maine, ME. REV. STAT. ANN. tit. 10, §§ 1211 to 1216 (West 2009); Minnesota,
5 MINN. STAT. ANN. § 325D.43 to .48 (West 2009); Nebraska, NEB. REV. STAT.
6 §§ 87-301 to 87-306 (2009); New Mexico, N.M. STAT. ANN. §§ 57-12-1 to 57-12-
7 22 (Michie 2009); New York, N.Y. GEN. BUS. Law § 349 (McKinney 2009); Ohio,
8 OHIO REV. CODE ANN. §§ 4165.01 to 4165.04 (Baldwin 2009); and Oklahoma,
9 OKLA. STAT. ANN. tit. 78, §§ 51 to 55 (West 2009).

10 66. Defendants' unauthorized use of confusingly similar imitations of
11 adidas's Three-Stripe Mark has caused and is likely to cause substantial injury to the
12 public and to adidas. adidas is entitled to injunctive relief and to recover damages
13 and, if appropriate, punitive damages, costs, and reasonable attorneys' fees.

14 **FIFTH CLAIM FOR RELIEF**

15 **(Common Law Trademark Infringement and Unfair Competition)**

16 67. adidas repeats and incorporates by reference the allegations in the
17 preceding paragraphs.

18 68. Defendants' acts constitute common law trademark infringement and
19 unfair competition, and have created and will continue to create, unless restrained by
20 this Court, a likelihood of confusion to the irreparable injury of adidas. adidas has
21 no adequate remedy at law for this injury.

22 69. On information and belief, Defendants acted with full knowledge of
23 adidas's use of, and statutory and common law rights to, the Three-Stripe Mark and
24 without regard to the likelihood of confusion of the public created by Defendants'
25 activities.

26 70. Defendants' actions demonstrate an intentional, willful, and malicious
27 intent to trade on the goodwill associated with adidas's Three-Stripe Mark to the
28 great and irreparable injury of adidas.

1 71. As a result of Defendants' acts, adidas has been damaged in an amount
2 not yet determined or ascertainable. At a minimum, however, adidas is entitled to
3 injunctive relief, to an accounting of Defendants' profits, damages, and costs.
4 Further, in light of the deliberately fraudulent and malicious use of a counterfeit
5 and/or confusingly similar imitation of adidas's Three-Stripe Mark, and the need to
6 deter Defendants from engaging in similar conduct in the future, adidas additionally
7 is entitled to punitive damages.

8 **SIXTH CLAIM FOR RELIEF**

9 **(Federal Trademark Dilution)**

10 72. adidas repeats and incorporates by reference the allegations in the
11 preceding paragraphs.

12 73. For decades, adidas has exclusively and continuously promoted and
13 used the registered Three-Stripe Mark both in the United States and throughout the
14 world. The mark therefore had become a famous and well-known symbol of adidas
15 and its products well before Defendants offered for sale the apparel identified in this
16 Complaint.

17 74. Defendants are making use in commerce of marks that dilute and are
18 likely to dilute the distinctiveness of adidas's Three-Stripe Mark by eroding the
19 public's exclusive identification of the famous Three-Stripe Mark with adidas,
20 tarnishing and degrading the positive associations and prestigious connotations of the
21 Three-Stripe Mark, and otherwise lessening the capacity of the Three-Stripe Mark to
22 identify and distinguish adidas's goods.

23 75. Defendants' actions demonstrate an intentional, willful, and malicious
24 intent to trade on the goodwill associated with adidas's Three-Stripe Mark or to
25 cause dilution of the Three-Stripe Mark to the great and irreparable injury of adidas.

26 76. Defendants have caused and will continue to cause irreparable injury to
27 adidas's goodwill and business reputation, and dilution of the distinctiveness and
28 value of adidas's famous Three-Stripe Mark in violation of 15 U.S.C. § 1125(c).

adidas therefore is entitled to injunctive relief and to Defendants' profits, actual damages, enhanced profits and damages, and reasonable attorneys' fees under 15 U.S.C. §§ 1125(c), 1116 and 1117.

SEVENTH CLAIM FOR RELIEF

(State Trademark Dilution and Injury to Business Reputation)

77. adidas repeats and incorporates by reference the allegations in the preceding paragraphs.

78. adidas has extensively and continuously promoted and used the registered Three-Stripe Mark both in the United States and throughout the world, and the mark had thereby become a distinctive, famous, and well-known symbol of adidas's goods and services well before Defendants offered for sale the apparel identified in this Complaint.

79. Defendants' unauthorized imitations of adidas's registered Three-Stripe Mark dilute and are likely to dilute the distinctiveness of adidas's mark by eroding the public's exclusive identification of this famous and well-known mark with adidas, and tarnishing and degrading the positive associations and prestigious connotations of the mark, and otherwise lessening the capacity of the mark to identify and distinguish adidas's goods and services.

80. Defendants are causing and will continue to cause irreparable injury to adidas's goodwill and business reputation, and dilution of the distinctiveness and value of adidas's famous Three-Stripe Mark in violation of the California antidilution act, CAL. BUS. & PROF. CODE § 14247 (West 2009), as well as the antidilution laws of several other states, including Alabama, ALA. CODE § 8-12-17 (2009); Alaska, ALASKA STAT. §45.50.180 (Michie 2009); Arizona, ARIZ. REV. STAT. ANN. § 44-1448.01 (West 2009); Arkansas, ARK. CODE ANN. § 4-71-213 (2009); Connecticut, CONN. GEN. STAT. ANN § 35-11i(c) (West 2009); Delaware, DEL. CODE ANN. tit. 6, § 3313 (2009); Florida, FLA. STAT. ANN. § 495.151 (West 2007); Georgia, GA. CODE ANN. § 10-1-451 (2009); Hawaii, HAW. REV.

1 STAT. ANN. § 482-32 (Michie 2009); Idaho, IDAHO CODE § 48-513 (Michie
2 2009); Illinois, 765 ILL. COMP. STAT. ANN. 1036/65 (2009); Iowa, IOWA CODE
3 ANN. § 548.113 (West 2009); Indiana, IN. CODE 24-2-13.5 (West 2009); Kansas,
4 KAN. STAT. ANN. § 81-214 (2009); Louisiana, LA. REV. STAT. ANN. § 51:223.1
5 (West 2009); Maine, ME. REV. STAT. ANN. tit. 10, § 1530 (West 2000);
6 Massachusetts, MASS. GEN. LAWS. ANN. ch. 110H, § 13 (West 2009); Minnesota,
7 MINN. STAT. ANN. § 333.285 (West 2009); Mississippi, MISS. CODE. ANN.
8 § 75-25-25 (2009); Missouri, MO. ANN. STAT. § 417.061(1) (West 2009);
9 Montana, MONT. CODE ANN. § 30-13-334 (2009); Nebraska, NEB. REV. STAT.
10 ANN. § 87-140 (Michie 2009); Nevada, NEV. REV. STAT. 600.435 (2007); New
11 Hampshire, N.H. REV. STAT. ANN. § 350-A:12 (2009); New Jersey, N.J. STAT.
12 ANN. 56:3-13.20 (West 2009); New Mexico, N.M. STAT. ANN. § 57-3B-15
13 (Michie 2009); New York, N.Y. GEN. BUS. Law § 360-1 (2009); Oregon, O.R.S. §
14 647.107 (2009); Pennsylvania, 54 PA. CONS. STAT. ANN. § 1124 (West 2009);
15 Rhode Island, R.I. GEN. LAWS § 6-2-12 (2009); South Carolina, S. C. CODE ANN.
16 § 39-15-1165 (2009) Tennessee, TENN. CODE ANN. § 47-25-513 (2009); Texas,
17 TEX. BUS. & COM. CODE ANN. § 16.29 (Vernon 2009); Utah, UT. CODE ANN.
18 § 70-3a-403 (2009); Washington, WASH. REV. CODE ANN. § 19.77.160 (West
19 2009); West Virginia, W.V. STAT. ANN. 47-2-13 (Michie 2009); and Wyoming,
20 WYO. STAT. ANN. § 40-1-115 (Michie 2009). adidas therefore is entitled to
21 injunctive relief, damages, and costs, as well as, if appropriate, enhanced damages
22 and reasonable attorneys' fees.

23 **EIGHTH CLAIM FOR RELIEF**

24 **(Breach of Contract as to Defendants**

25 **Premier Soccer Inc. and Glory Trading Inc.)**

26 81. adidas repeats and incorporates by reference the allegations in the
27 preceding paragraphs.

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82. The 2010 Premier Settlement Agreement and the 2010 Glory Trading Settlement Agreement are valid contracts.

83. The 2010 Premier Settlement Agreement and the 2010 Glory Trading Settlement Agreement were supported by adequate consideration.

84. Premier Soccer and Glory Trading breached the respective settlement agreements when they manufactured, offered for sale, or sold the infringing apparel bearing two and/or three stripes in a manner confusingly similar to adidas's Three-Stripe Mark.

85. Premier Soccer's and Glory Trading's breach of their contractual obligations has damaged adidas, and Premier Soccer' and Glory Trading's ongoing breach of the 2010 Premier Settlement Agreement and 2010 Glory Trading Settlement Agreement, respectively, is inflicting irreparable harm on adidas.

PRAYER FOR RELIEF

WHEREFORE, adidas prays that:

1. Defendants and all of their agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through, or under authority from Defendants, or in concert or participation with Defendants, and each of them, be enjoined preliminarily and permanently, from:

- a. using adidas's Three-Stripe Mark or any other copy, reproduction, colorable imitation or simulation of the Three-Stripe Mark on or in connection with Defendants' products;
- b. using any trademark, logo, design, or source designation of any kind on or in connection with Defendants' goods that is a copy, reproduction, colorable imitation, or simulation of, or confusingly similar to adidas's Three-Stripe Mark;
- c. using any trademark, logo, design, or source designation of any kind on or in connection with Defendants' goods that is likely to cause confusion, mistake, deception, or public misunderstanding that such

1 goods are produced or provided by adidas, are sponsored or authorized
2 by adidas, or are in any way connected or related to adidas;
3 d. using any trademark, logo, design, or source designation of any kind
4 on or in connection with Defendants' goods that dilutes or is likely to
5 dilute the distinctiveness of the trademarks or logos of adidas; and
6 e. passing off, palming off, or assisting in passing off or palming off
7 Defendants' goods as those of adidas, or otherwise continuing any and
8 all acts of unfair competition as alleged in this Complaint;

9 2. Defendants be ordered to recall and retrieve all products bearing the
10 Three-Stripe Mark or any other confusingly similar variation thereof, which have
11 been shipped by Defendants or under their authority, to any store or customer,
12 including, but not limited to, any retail store, marketer, distributor, or distribution
13 center, and also to deliver to each such store or customer a copy of this Court's order
14 as it relates to said injunctive relief against Defendants;

15 3. Defendants be ordered to deliver up for impoundment and for
16 destruction all apparel, bags, boxes, labels, tags, signs, packages, receptacles,
17 advertising, sample books, promotional material, stationery, or other materials in the
18 possession, custody, or under the control of Defendants that are found to adopt, use,
19 feature, infringe, or dilute any of adidas's trademarks or that otherwise unfairly
20 compete with adidas or adidas's products;

21 4. Defendants be compelled to account to adidas for any and all profits
22 derived by Defendants from the sale or distribution of counterfeit or infringing goods
23 as described in this Complaint;

24 5. adidas be awarded all damages caused by the acts forming the basis of
25 this Complaint;

26 6. Based on Defendants' knowing and intentional use of counterfeit and
27 confusingly similar imitations of adidas's Three-Stripe Mark, the damages award be
28 trebled and the award of Defendants' profits be enhanced as provided for by

1 15 U.S.C. § 1117(a) and (b);

2 7. Defendants be required to pay to adidas the costs and reasonable
3 attorneys' fees incurred by adidas in this action pursuant to 15 U.S.C. § 1117(a) and
4 the state statutes cited in this Complaint;

5 8. Based on Defendants' willful and deliberate counterfeiting,
6 infringement, and/or dilution of adidas's marks, and to deter such conduct in the
7 future, adidas be awarded punitive damages;

8 9. Defendants be required to pay prejudgment and post-judgment interest
9 on the damages and profits awards; and

10 10. adidas have such other and further relief as the Court may deem just.

11 **JURY TRIAL DEMAND**

12 adidas respectfully demands a trial by jury on all claims and issues so triable.

13
14 DATED: January 30, 2014

Respectfully submitted,

15 KILPATRICK TOWNSEND & STOCKTON LLP

16
17 Bv: /s/ Dennis Wilson
18 DENNIS WILSON

19 Attorneys for Plaintiff
ADIDAS AG and ADIDAS AMERICA, INC.
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